

REMARKS

Reconsideration and withdrawal of the restriction requirement is respectfully requested in view of the remarks presented herein.

The Examiner has required restriction from among the species directed to any 2 or more of SEQ ID NOS 1-10. Applicants hereby elect the species directed to any 2 of SEQ ID NOS 1-10, with traverse, for prosecution on the merits.

The MPEP lists two criteria for restriction to be proper. First, the invention must be independent or distinct. MPEP §803. Second, searching the additional invention(s) must constitute an undue burden on the Examiner if restriction is not required. *Id.* The MPEP directs the Examiner to search and examine an entire application “[i]f the search and examination of an entire application can be made without serious burden...even though it includes claims to distinct or independent inventions.” *Id.*

The claims, as originally filed and presented herein, represent obvious variants of the same sequence, namely of SEQ ID No. 1 of WO 95/00664 at Figure 1, which are also found in the description of US 2003/0096228 at Paragraph [0055] and Example 1. A search and examination of the entire application can be made, therefore, without serious burden, even though each species may be separately claimed.

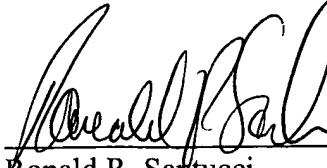
In view of the remarks herein, enforcing the present restriction requirement would result in inefficiencies and unnecessary expenditures by the Applicants and the PTO, as well as extreme prejudice to Applicants (particularly in view of GATT, whereby a shortened patent term may result in any divisional applications filed). Restriction has not been shown to be proper, especially in view of the requisite showing that a serious burden has not been met. Indeed, the search and examination of each commonly classified species would likely be co-extensive and, in any event, would involve such interrelated art that search and examination of the entire application can be made without undue burden on the Examiner. All of the preceding, therefore, mitigate against restriction.

CONCLUSION

Reconsideration and withdrawal, or modification of the restriction requirement, and a prompt and favorable examination on the merits, is respectfully requested.

Respectfully submitted,
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